

Message Text

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ACTION EB-08

INFO OCT-01 EA-10 ISO-00 CAB-02 CIAE-00 COME-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 SS-15
NSC-05 ITC-01 TRSE-00 /055 W
-----049053 270228Z /73
R 270154Z JUN 78
FM AMEMBASSY TOKYO
TO SECSTATE WASHDC 9122

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E.O. 11652: NA
TAGS: EAIR, JA
SUBJECT: CIVAIR: ALLEGED DISCRIMINATION AGAINST U.S.
AIR FREIGHT FORWARDERS
REF: (A) TOKYO 10934, (B) STATE 150426, (C) TOKYO 11490

SUMMARY: MOFA HAS GIVEN US NOTE VERBALE REJECTING
CONTENTION THAT U.S. AIR FREIGHT FORWARDERS UNDERGO
DISCRIMINATORY TREATMENT IN JAPAN AND REQUESTING THAT
U.S. SIDE QUICKLY RENEW JAPANESE FORWARDER U.S. PERMITS.
NOTE ALSO POINTS OUT THAT FOREIGN OPERATORS IN U.S.
MUST RENEW PERMITS EVERY FIVE YEARS WHEREAS U.S. FIRMS
FACE NO SUCH REQUIREMENT.
END SUMMARY.

1. ON JUNE 21, MOFA GAVE EMBOFF NOTE VERBALE SETTING
FORTH GOJ VIEWS ON AIR FREIGHT FORWARDER QUESTION. IT
NOTES FACT THAT U.S. SIDE IS WITHHOLDING RENEWAL IN
U.S. OF SEVEN JAPANESE FREIGHT FORWARDERS PERMITS OWING
TO PROBLEMS IN REGARD TO THE "STATE OF PROGRESS" OF THE
CIVAIR NEGOTIATIONS AND THE "JAPANESE SIDE'S WAY OF
TREATING" AMERICAN FREIGHT FORWARDERS IN JAPAN.
2. NOTE COUNTERS, HOWEVER, THAT AIR FREIGHT FORWARDERS
QUESTION HAS NOT BEEN "REFERRED TO" AT CIVAIR NEGO-
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TIATIONS AND THAT THE PROBLEM HAS "NO CONNECTION" WITH
THE SAID TALKS. GOJ ALSO EXPLAINS THAT IT IS GUILTY
OF NO DISCRIMINATION IN EITHER TRUCK LICENSING OR
TARIFF RATES SINCE BOTH JAPANESE AND FOREIGN ENTER-
PRISES MUST MEET SAME STANDARDS, REQUIRED BY ROAD
TRANSPORT LAW, TO OBTAIN A TRUCKING LICENSE AND
MUST CHARGE SAME FREIGHT TARIFF, BASED ON THE AGREED

IATA RATE WHICH IS ACCEPTED BY THE JAPANESE SIDE.
IN VIEW OF THESE FACTS, NOTE REQUESTS THAT U.S. PROCEED
TO ISSUE, AS SOON AS POSSIBLE, RENEWAL OF THE SEVEN
JAPANESE AIR FREIGHT FORWARDER PERMITS WHICH IT HAS
WITHHELD.

3. NOTE CONCLUDES BY ACKNOWLEDGING THAT JAPANESE
POLICY OF EMPHASIZING "SOUNDNESS OF ENTERPRISE" AND
"STABLE SUPPLY OF SERVICE" MAY DIFFER FROM THE U.S.
APPROACH BUT DENIES THAT THIS IS DISCRIMINATORY SINCE
ALL NATIONALITIES WITHIN JAPAN ARE TREATED EQUALLY.
BY CONTRAST, GOJ NOTES, FOREIGN AIR FREIGHT FORWARDERS
IN THE U.S. MUST APPLY FOR PERMIT RENEWAL EVERY FIVE
YEARS WHEREAS U.S. FIRMS DO NOT HAVE TO GO THROUGH SAME
PROCEDURES. THIS, GOJ CONTENDS, COULD BE CONSIDERED
"DISCRIMINATORY TREATMENT."

4. DURING ORAL PRESENTATION, FIRST N.A. DEP DIR YAMAZAKI
STRESSED THAT GOJ REGARDED AIR FREIGHT MATTER AS
"SEPARATE AND NON-RELATED" TO CIVAIR ISSUES AND SAID
THAT DURING MOFA'S DISCUSSION WITH MOT THEY HAD BEEN
ABLE TO FIND "NO EVIDENCE" OF DISCRIMINATION. HE NOTED
THAT THE BASIC STANDARDS REQUIRED TO OBTAIN A COMMERCIAL
TRUCKING LICENSE; E.G., NO. OF TRUCKS, GARAGE FACILITIES,
HAD BEEN ESTABLISHED TO ASSURE THAT SOUND STANDARDS OF
OPERATION, BOTH IN TERMS OF SAFETY AND RELIABILITY,
WOULD BE MET BY EACH LICENSEE.
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5. IN REGARD TO THE TARIFF QUESTION, YAMAZAKI COMMENTED
THAT REQUIRING A SINGLE TARIFF IS NOT DISCRIMINATORY.
THE MAJOR PORTION OF THE TARIFF IS DETERMINED BY THE
INTERNATIONAL AIR CARGO RATES AGREED UPON BY IATA. HE
COMMENTED THAT THE SINGLE TARIFF IDEA FITS WELL THE
SPIRIT OF JAPAN'S CIVIL AERONAUTIC LAW WHICH SEEKS TO
PREVENT UNREASONABLE PRICE COMPETITION WHICH COULD
AFFECT MARKET ORDER. HE NOTED THAT THE GOJ'S EMPHASIS
ON STABILITY MIGHT DIFFER FROM U.S. POLICY BUT THIS WAS
NOT DISCRIMINATION SO LONG AS ALL PARTICIPANTS WITHIN
THE JAPANESE SYSTEM ARE TREATED EQUALLY. HE OBSERVED,
BY WAY OF CONTRAST THAT FOREIGN OPERATORS IN THE U.S.
MUST APPLY FOR PERMIT RENEWAL ONCE EVERY 5 YEARS
WHEREAS U.S. FIRMS THERE FACE NO SUCH REQUIREMENT IN
THAT THEIR PERMITS HAVE INDEFINITE VALIDITY. THIS, HE
COMMENTED, COULD BE TERMED "DISCRIMINATORY."

6. IN CLOSING HE ASKED THAT THE U.S. PROCEED PROMPTLY
TO RENEW THE SEVEN JAPANESE PERMITS THAT IT HAS BEEN
WITHHOLDING.

7. EMBOFF THANKED YAMAZAKI FOR HIS THOROUGH PRESENTATION

AND ASKED FOR TWO CLARIFICATIONS. RE TRUCKING LICENSES, ONE OFTEN SEES IN TOKYO SMALL PICKUP TRUCKS LABELED "BUSINESS OF THE HOUSE" OR "SELF EMPLOYED." OBVIOUSLY, THE OWNER HAS NO TRUCK FLEET OR MAINTENANCE GARAGE. EMBOFF ASKED HOW HE GETS A LICENSE. MOFA REPLIED, AFTER CHECKING, THAT THESE TRUCKS DO NOT MOVE CARGO COMMERCIALLY BUT ARE OPERATED AS AN ADJUNCT TO A BUSINESS TO DELIVER ONE'S OWN PRODUCT, E.G., A PRINTING BUSINESS.

8. RE TARIFF RATE, EMBOFF ASKED WHETHER TOTAL RATE, LIMITED OFFICIAL USE

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INCLUDING IATA'S AND GROUND TARIFF IN JAPAN, WAS SET BY JCAB OR BY ASSOCIATION OF COMPANIES HERE. YAMAZAKI REPLIED THAT 13 MEMBER COMPANIES, WHICH INCLUDE AIRBORNE AND OTHER U.S. FIRMS ACTING AS JOINT VENTURE PARTNERS, OF INTERNATIONAL AIR FREIGHT FORWARDERS ASSOCIATION DECIDE ON TOTAL UNITARY RATE AND THEN FILE IT WITH JCAB FOR APPROVAL.

9. MOFA AND JAPANESE EMBASSY WASHINGTON APPEAR TO BE IN CLOSE TOUCH IN THIS CASE. MOFA IS WELL AWARE THAT COMPLAINT STEMS FROM AIRBORNE. DURING PRESENTATION, FOR EXAMPLE, YAMAZAKI COMMENTED THAT AIRBORNE HAS BEEN IN JAPAN SIXTEEN YEARS, LONGER THAN ANY OTHER FOREIGN FREIGHT FORWARDER, AND WONDERED, SOMEWHAT RHETORICALLY, WHY THEIR COMPLAINT ARISES AT THIS LATE DATE.
10. COMMENT: WE MAY WISH TO PURSUE MATTER OF UNITARY FREIGHT RATE REQUIREMENT IF OTHER U.S. OPERATORS HERE, AS WELL AS AIRBORNE, ARE WILLING TO ROCK THE BOAT AND STIMULATE COMPETITION BY, PERHAPS, REDUCING THE GROUND

TARIFF SEGMENT OF THEIR CHARGES AND PASSING THEIR
LOWER RATES ON TO SHIPPERS. MOST HAVE JAPANESE
PARTNERS, HOWEVER, AND WILL PROBABLY BE RELUCTANT TO
PRESS MATTER. BEFORE EMBASSY CHECKS THIS OUT, REQUEST
WASHINGTON'S COMMENTS. EMBASSY RECOMMENDS WE DROP
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CHARGES OF "DISCRIMINATION" WHICH CLEARLY ARE WEAK,
AND THAT CONSIDERATION BE GIVEN TO APPROVING RENEWAL
WITHOUT PREJUDICE OF LICENSES OF JAPANESE FREIGHT
FORWARDERS IN THE U.S. LATTER ACTION WOULD CLEAR THE
AIR AND ENHANCE OUR CHANCES OF GETTING BEST POSSIBLE
TREATMENT OF U.S. FREIGHT FORWARDERS HERE.

11. FULL EMBASSY TRANSLATION OF NOTE VERBALE SENT
TOKYO 11490.

MANSFIELD

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Message Attributes

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